

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF OKLAHOMA
OKLAHOMA CITY DIVISION

SHAUNE GALLARDO

Plaintiff

v.

FINANCIAL MANAGEMENT SYSTEMS

Defendant

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CAUSE NO. CIV-12-56-M

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Shaune Gallardo, through his attorneys, Kim Lucas, Kyle Mathis & Lucas LLP, alleges the following against Financial Management Systems.

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which state that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy".

4. Defendant conducts business in the state of Oklahoma and thereof, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Altus, Oklahoma.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt service and collection company with its principal office located in Schaumburg, IL. Defendant regularly attempts to collect debts in this state. Defendant may be served with process at Financial Management Systems, Attn: Legal Counsel, 1000 E. Woodfield Road, Suite 102, Schaumburg, IL 60173-4742.

FACTUAL ALLEGATIONS

10. Upon information and belief, Defendant is attempting to collect from Plaintiff an alleged debt owed for a private student loan.
11. Defendant placed collection calls to Plaintiff and threatened legal action stating that they would take Plaintiff to court.
12. Defendant placed daily calls to Plaintiff on his cell phone.

13. Defendant violated FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which was to harass, oppress, and abuse Plaintiff.
- b. Defendant violated §1692e(10) of the FDCPA by using false, deceptive or misleading representation or means in connection with the collection of Plaintiff's alleged debt.
- c. Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt.
- d. Defendant violated §1692e(4) of the FDCPA by giving the representation or implication that nonpayment of any debt will result in the garnishment of the wages and interception of tax returns of Plaintiff, without intending to take said action.
- e. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse and harass the Plaintiff.
- f. Defendant violated §1692e(5) of the FDCPA by threatening legal action against Plaintiff even though such action is not intended to be taken.

WHEREFORE, Plaintiff Shaune Gallardo respectfully requests judgment be entered against Defendant, Financial Management Systems, for the following:

14. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

15. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15U.S.C. 1692k,
16. Any other relief that his Honorable Court deems appropriate.

Respectfully submitted,

By 

Kim A. Lucas
State Bar No. 22812
KYLE MATHIS & LUCAS LLP
8226 Douglas Avenue, Suite 450
Dallas, Texas 75225
(214) 706-7600
(214) 706-7622 (Fax)

ATTORNEY FOR PLAINTIFF
SHAUNE GALLARDO

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff Shaune Gallardo, demands a jury trial in this case.